

REMARKS

In response to the above-identified Office Action ("Action"), the Applicants submit the following remarks and seek reconsideration thereof. Claims 1-26 are rejected. In this response, claims 1, 15 and 23-26 are amended, no claims are cancelled and no claims are added. Accordingly, claims 1-26 are pending in the present application.

I. Examiner Interview Summary

The Applicants acknowledge with appreciation the Examiner's granting of an interview with Applicants' representative Dimitri Kirimis on April 8, 2010 via telephone. During the interview, the Final Office Action of March 8, 2010 was discussed. The Examiner stated without further explanation, apart from that provided in the outstanding Final Office Action, that Lipton discloses "multiplexing encoded streams for only essential fields among the four encoded streams received from the encoding means, based on the user display information" as recited in claim 1. No agreements were reached during the interview.

II. Claim Rejections under 35 U.S.C. § 103

Claims 1-5, 11-14, 23 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent Publication NO. 2002/0009137 by Nelson *et al.* ("Nelson") in view of US Patent No 5,416,510 issued to Lipton *et al.* ("Lipton") in further view of US Patent No. 6,574,423 issued to Oshima *et al.* ("Oshima"). Claims 6-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nelson in view of Lipton and Oshima and further in view of US Patent No. 6,614,936 issued to Wu *et al.* ("Wu"). Claims 15, 19, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nelson in view of Oshima. Claims 16-18, 20-21, and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nelson in view of Oshima and further in view of Lipton.

To determine obviousness of a claim: (1) factual findings must be made under the factors set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966); and (2) the analysis supporting the rejection under 35 U.S.C. § 103 should be made explicit and there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See MPEP §§ 2141(II), 2141(III), and 2142; KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396; see e.g., MPEP § 2143 (providing a number of rationales which are

consistent with the proper “functional approach” to the determination of obviousness as laid down in Graham).

With respect to claim 1, this claim has been amended to recite “a receiving means for receiving the user display information, wherein the user display information corresponds to display capabilities of the display.” These amendments are supported, for example, by page 19, line 17 through page 20, line 27 of the Specification as filed. The Applicants submit that the combination of Nelson, Lipton, and Oshima fails to disclose these elements of amended claim 1.

In the Examiner interview, the Examiner alleges that Lipton discloses multiplexing based on user display information. Specifically, the Examiner cites column 5, lines 40-44 and Figure 1C to allegedly disclose these elements of claim 1. However, even assuming *arguendo* that Lipton does disclose these elements of claim 1, Lipton is silent as to how this display information is obtained. Further, the system of Lipton does not necessarily include a receiving means for receiving the user display information from the display of the user, because instead this display information could be hard coded into the system of Lipton such that a receiving means would be unnecessary. Thus, for at least these reasons, Lipton fails to disclose these elements of amended claim 1. Further, the Examiner has not cited and the Applicants have been unable to locate any sections of Nelson or Oshima which cure the deficiencies of Lipton.

By including a receiving means for receiving user display information, the stereoscopic video encoding apparatus of claim 1 can multiplex video streams for a display based on display information (i.e. display capabilities) without needing to hard code the display information into the apparatus. As described above, Nelson, Lipton and Oshima fail to disclose these elements of amended claim 1. According to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Therefore, amended claim 1 is not obvious in view of the combination of Nelson, Lipton and Oshima. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 on this basis.

With respect to claims 15 and 23-26, these claims have been amended to include elements analogous to those of amended claim 1. These amendments are supported, for example, by page 19, line 17 through page 20, line 27 of the Specification as filed. For at least the reasons discussed above in relation to claim 1, the combination of Nelson, Lipton and Oshima fails to disclose these elements of amended claims 15 and 23-26. Further, the Examiner has not cited

and the Applicants have been unable to locate any sections of Wu which cure the deficiencies of Nelson, Lipton and Oshima. Therefore, claims 15 and 23-26 are not obvious in view of the combination of Nelson, Lipton, Oshima and Wu. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 15 and 23-26 on this basis.

In regard to claims 2-14 and 16-22, these claims depend from independent claims 1 and 15, respectively, and incorporate the limitations thereof. The Examiner's argument assumes that the combination of Nelson, Lipton, Oshima and Wu discloses all elements of claims 1 and 15 which are incorporated in dependent claims 2-14 and 16-22. However, as discussed above, the combination of Nelson, Lipton, Oshima and Wu does not disclose all the limitations of claims 1 and 15. Therefore, claims 2-14 and 16-22 are not obvious in view of the cited prior art. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2-14 and 16-22 on this basis.

III. Amendments to the Drawings

Figure 2 has been amended to include a receiving means as recited in the amended claims. The amendments are submitted in the form of a "Replacement Sheet" in compliance with 37 CFR 1.121(d). As amended, the drawings show every feature recited in the claims. Accordingly, the Applicants respectfully request entry of the amendment to Figure 2.

IV. Additional Amendments to the Claims

The Applicants submit additional amendments to claims 1, 15, and 23-26. These amendments merely cure grammatical errors without adding new subject matter to the Application. Accordingly, the Applicants respectfully request entry of these amendments.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

PETITION FOR EXTENSION OF TIME


Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on March 8, 2010, Applicants respectfully petition Commissioner for a two (2) month extension of time, extending the period for response to August 8, 2010. The amount of \$245.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(2) small entity will be charged to our Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: 8/5/2010

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper is being transmitted online via EFS Web to the Patent and Trademark Office, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, on the date below.


Jessica Hueter

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Date